

Appl. No. 10/764,215
Docket No. P142M
Response Dated February 5, 2007
Reply to Office Action mailed on January 5, 2007
Customer No. 27752

REMARKS

Response to Restriction Requirement

The Examiner has required, under 35 USC §121, election of a single group of claims for prosecution on the merits. A provisional election is made herein with traverse.

Traversal of Restriction Requirement

The Applicants respectfully traverse the restriction requirement as it is considered improperly made. The Examiner states that Group I (Claims 1-9) is directed to a composition comprising astaxanthin, and that Group II (Claims 10-17) is directed to a method for enhancing immunity and longevity.

The Examiner states that the two groups are related as product and process of use, but that the process for using the product as claimed can be practiced with another, materially different product and the product as claimed can be used in a materially different process.

The Applicants assert, however, that the compositions and methods defined by Groups I and II have the same goal and effects, to provide astaxanthin to companion animals, and the Applicants therefore believe a search could be coextensive. Therefore, the Restriction Requirement should be withdrawn.

However, in compliance with the Restriction Requirement, the Applicants provisionally elect, with traverse, Group I, Claims 1-9, drawn to the composition.

The Applicants, however, note that upon the allowance of a composition claim, withdrawn method claims will be rejoined, in accordance with the provisions of MPEP § 821.04.

Conclusion

The Applicants therefore respectfully request that Examiner reconsider the Restriction Requirement and proceed to examination of the application on the merits. If the Examiner believes that personal contact would be beneficial for disposition of the present application, the Examiner is respectfully requested to contact the undersigned.

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Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Signature

Kristin Kohler
Registration No. 41,907
(513) 662-3371

Date: February 5, 2007
Customer No. 27752